

**DECISION AB n° 01/2013
OF THE ADMINISTRATIVE BOARD
OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS**

of 10 January 2013

**ON THE POLICY ON PROTECTING THE DIGNITY OF THE PERSON
AND PREVENTING PSYCHOLOGICAL HARASSMENT AND SEXUAL
HARASSMENT**

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing the Agency for the Cooperation of Energy Regulators (hereafter referred to as “ the Agency”) and, in particular, Article 28(2) thereof;

HAVING REGARD to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (hereafter “CEOS”), as laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 and the amendments thereto, and, in particular, Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Article 11 of the CEOS;

HAVING REGARD to the Rules of Procedure of the Administrative Board, laid down by Decision AB No 03/2010 of 6 May 2010, and, in particular, Article 9(2) thereof;

After the consultation of the Staff Committee of the Agency and in agreement with the European Commission pursuant to Article 28(2) of Regulation (EC) No 713/2009 and Article 110 of the Staff Regulations;

Whereas:

(1) Psychological harassment and sexual harassment at work are serious problems which the Agency is committed to stamp out by promoting a culture free of all forms of violence in the workplace and in which such harassment is unacceptable.

(2) Psychological harassment and sexual harassment may have different causes, but have certain similarities. An informal procedure common to these two forms of harassment should therefore be established through the network of confidential counsellors, and arrangements laid down applicable to the common formal procedure under Articles 24 and 90 of the Staff Regulations.

(3) A formal procedure can be initiated on the basis of a request for assistance under Article 24 of the Staff Regulations. The formal procedure can be initiated immediately or in the course of or at the end of the informal procedure.

(4) The Agency should:

- introduce a common policy of prevention of psychological harassment and sexual harassment within the context of the Staff Regulations;
- introduce an informal and formal procedure relating to psychological harassment and sexual harassment;
- take appropriate action (if necessary, disciplinary measures) in accordance with the Staff Regulations against any person who is found guilty of psychological harassment or sexual harassment at the end of a formal procedure.

HAS DECIDED AS FOLLOWS:

Article 1

The document entitled "Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment" annexed to this Decision is hereby adopted.

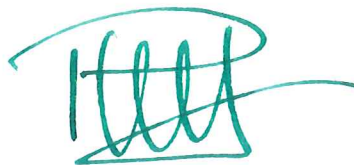
Article 2

Entry into Force

This Decision shall take effect on the day following that of its adoption.

Done in Ljubljana on 10 January 2013.

For the Administrative Board:



Piotr Woźniak

Chairman of the ACER Administrative Board

ANNEX I to the DECISION AB n° 01/2013

POLICY ON PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

1. INTRODUCTION

As an employer and to protect its staff, the Agency must guarantee respect for the dignity of women and men at the workplace. It is committed to prevent such harassment and to condemn such behaviour. The Staff Regulations were amended on 1 May 2004 and now explicitly condemn psychological harassment and sexual harassment (Article 12a of the Staff Regulations and Article 11 of the Conditions of Employment of other Servants). It is important to identify and put a stop to such situations as they always have a serious impact and cause grave distress.

In fact, psychological harassment and sexual harassment fall within the broader issue of violence in the workplace and are a serious problem in the working environment. They urgently require greater attention as well as proactive measures to stamp them out. Conditioned by a range of socio-economic, organisational and cultural factors, violence of different forms in the workplace creates human, economic and social costs. Data collected in a number of Member States confirm just how widespread this problem is.

In this general context, all staff working for the Agency must refrain from any form of psychological harassment or sexual harassment. Management (at both middle and senior level) play a key role. As managers, it is their job to cultivate a working environment that is not conducive to psychological harassment and sexual harassment, or at least one in which they can be dealt with as swiftly as possible if they arise.

The purpose of this document is to define a policy on the prevention of psychological harassment, to take account of the provisions in the Staff Regulations (Article 12a) and the Conditions of Employment of other Servants (Article 11). This policy also gives anyone who feels they are a victim of sexual harassment access to the informal procedure introduced for cases of psychological harassment, and gives details of the arrangements applicable to the formal procedure which may be initiated in the event of harassment.

2. DESCRIPTION

Psychological harassment and sexual harassment may have different causes, but have certain similarities. In some cases, moreover, these two forms of harassment may be closely linked. This is the case where sexual harassment translates into psychological harassment, for instance after rejection of a request of a sexual nature.

Offensive conduct of this type often stems from abuse of power or maliciousness, and can be perpetrated by both individuals and groups. Harassment, be it psychological or sexual, may come from colleagues on an equal footing, as well as superiors and subordinates.

2.1. Psychological harassment

Under the Staff Regulations **psychological harassment** means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

Psychological harassment can manifest itself in various forms, in particular by:

- offensive or degrading comments, in particular in public, bullying, antagonism, pressure, offensive behaviour, even refusal to communicate;
- insults relating to someone's personal or professional competence;
- insulting or threatening remarks, both oral and written;
- belittling someone's contributions and achievements;
- being deliberately isolated, set apart, excluded, rejected, ignored, disparaged or humiliated by colleagues;
- impairing social relations;
- setting manifestly unattainable working objectives;
- not giving someone any work or systematically giving them work which does not meet the profile of their job, when this is not required or justified in the interest of the service;
- assigning systematically someone to a job which manifestly does not meet their competences, when this is not required or justified in the interest of the service.

Such behaviour, while unacceptable, may in isolation appear of little consequence. When occurring on a regular basis, however, such conduct can cause serious harm to the person at whom it is directed.

Some kinds of behaviour may hurt certain people without constituting psychological harassment. A remark, a dispute, a clash of personalities at work, a management decision which is difficult to accept (allocation of new tasks, for instance), a duly substantiated

negative assessment, even repeated, cannot therefore necessarily be considered psychological harassment.

2.2. Sexual harassment

Under the Staff Regulations, **sexual harassment** means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment.

Sexual harassment may take different forms (physical, verbal, written or other), and involve persons of the opposite sex and of the same sex. The essential characteristic of sexual harassment is that it is unwanted by the recipient; it is therefore for each individual to determine what behaviour is acceptable to them and what they regard as offensive. Sexual attention becomes sexual harassment if it is persisted in once it has been made clear that it is regarded by the recipient as offensive, although, unlike psychological harassment, a single incident may constitute sexual harassment if it is sufficiently serious (for example: groping, torn clothing, etc.). Anyone who is guilty of such behaviour knows or should know that it affects the dignity of women and men at the workplace. Sexual harassment is also treated as discrimination based on gender (Article 12a (4) of the Staff Regulations).

A range of different types of behaviour can be considered sexual harassment, such as:

- promises of some kind of reward (favourable career moves, etc.) in return for sexual favours, or threats of reprisals if such requests are turned down;
- repetition of coarse or suggestive remarks, or sexual innuendo;
- use of crude and obscene language and gestures;
- repeated and exaggerated compliments on the appearance of a work colleague;
- physical contact, rubbing against someone, pinching, deliberate unwanted kisses;
- acts of voyeurism or exhibitionism;
- use of pornographic material.

2.3. Consequences of conduct constituting psychological harassment or sexual harassment

Psychological harassment or sexual harassment might have various consequences for the persons who suffer it or feel they are being subjected to it:

- they become isolated and social relationships tend to deteriorate;
- they make more and more mistakes, can no longer concentrate, become less productive, are demotivated, etc.;
- their professional development is hindered, career jeopardised;
- they suffer mental and physical health problems such as stress, anxiety, shame, demoralisation, humiliation, disorientation, somatic disorders, depression or

increasingly serious physical and psychological disorders, which may, in extreme cases, lead to suicide.

The adverse consequences do not just affect the victims, but also impact on other colleagues and on the institution itself: loss of expertise, staff transfers, fall in productivity, absenteeism, harming the image of the institution, etc.

2.4. The concept of the “victim” in the context of psychological harassment or sexual harassment

Cases of psychological harassment are dealt with differently in the informal or the formal procedure.

At the formal level, in line with the Staff Regulations, psychological harassment will only be considered to exist if the conduct of the alleged harasser is regarded as abusive, intentional, repetitive, sustained or systematic and intended, for instance, to discredit or undermine the person concerned. These criteria are cumulative. Objective facts will help verify whether these criteria have actually been met and if action can be taken.

At the informal level, however, the aim is to provide psychosocial assistance. Here, the perception of harassment is subjective and depends on the situation as perceived by the person concerned. The goal is to bring an end to the distress generated both by a “proven” situation of psychological harassment and by a situation that is perceived as such. The key characteristic of psychological harassment in this case is that the person subject to it considers it undesirable conduct.¹

As regards sexual harassment, the formal definition in the Staff Regulations covers the subjective perception of such behaviour (unwanted conduct).

In the informal procedure, therefore, the term “victim” refers to any person who defines themselves or identifies themselves as such. However, it is important to remember that there is a fundamental legal distinction between a person «who feels they are the victim of harassment and one who has actually suffered harassment» and is therefore recognised as a victim on the basis of proven facts, having gone through the formal procedure. **No stage of the informal procedure may prejudice the outcome of the formal procedure.**

¹ See Court judgments in Cases T-549/93 D v Commission [1995] ECR-SC II-43, point 76, and T-242/97 Z v European Parliament [1999] ECR-SC II-401.

3. GOALS OF THE POLICY ON PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT OF THE AGENCY

The **goals** of the harassment-prevention policy of the Agency are:

- to promote a culture in which psychological harassment and sexual harassment, like other forms of violence in the workplace, are considered unacceptable and are neither tolerated nor ignored;
- to raise awareness about preventing psychological harassment or sexual harassment by providing information, training and counselling;
- to introduce simple and effective procedures (the formal and informal procedure) to protect the dignity of each and every person working at the Agency;
- to take appropriate action (if necessary, disciplinary measures) in accordance with the Staff Regulations against any person who is found guilty of psychological harassment or sexual harassment.

The Agency's policy on psychological harassment and sexual harassment will promote the development of an organisational culture in which every member of staff feels personally bound to respect and protect the dignity of their colleagues. In a professional environment in which different languages and cultures coexist, generating a large variety of interactions, these phenomena of violence may take a variety of forms and be perceived in a variety of ways. However, any conduct which does not respect the dignity of the person must be condemned.

The Agency will take the necessary steps to prevent and punish, under the Staff Regulations and the relevant EU legislation, any conduct that prejudices the dignity of its staff in the workplace and undermines its good name in application of Articles 12 and 12a of the Staff Regulations. Any conduct deemed to constitute psychological harassment or sexual harassment is regarded by the Agency as unacceptable and will be punished regardless of the rank of individuals formally recognised as guilty of such conduct (See Article 86 of the Staff Regulations and Article 9 of Annex IX).

4. GENERAL PRINCIPLES FOR DEALING WITH REQUESTS

4.1. Principle of prevention

The policy on psychological harassment and sexual harassment is based on an overall plan of preventive measures, comprising a number of different stages.

Specific prevention consists of developing a strategy of information and training, both individual and collective, to avoid and reduce the risk of psychological harassment or sexual harassment, notably by detecting recurrent cases.

4.2. Principle of equal treatment

As an employer and pursuant to the duty to have regard of the welfare of staff, the Agency must guarantee that its staff is treated in all circumstances with respect and dignity.

Each and every person working in the Agency, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law), has the right to point out a situation of harassment where he/she considers himself/herself as victim or to which he/she was witness to a confidential counsellor or Head of Administration Department.

4.3. Principle of protection of the victim and the possible witness

The policy to combat harassment is a protection tool for persons employed within the Agency. In this context, the victims and the possible witnesses will benefit from the protection guaranteed under Article 24 of the Staff Regulations and under Article 11 of the Conditions of Employment of other Servants.

Moreover, Article 12a of the Staff Regulations and Article 11 of the Conditions of Employment of other Servants foresees that “An official who has been the victim of psychological harassment or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological harassment or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly.”

4.4. Principle of confidentiality

Confidentiality is guaranteed during and after the informal procedure, as well as during and after the formal procedure. Compliance with the legislation on the protection of personal data² applies within both the formal and informal procedures.

4.5. Principle of the presumption of innocence

The presumption of innocence is fully guaranteed to alleged harassers all along the procedure.

4.6. Principle of promptness

In both the formal and the informal procedures, all requests for assistance by a person complaining of psychological harassment or sexual harassment will be dealt with as quickly

² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

as possible. However, if an administrative inquiry is opened as part of the formal procedure, the timeframes for handling the request will be longer.

4.7. Principle of precaution

Where there are signs of psychological harassment or sexual harassment, the Agency may separate the parties in conflict for precautionary reasons, either in case of a formal procedure, or at the request of the counsellor or at the request of the immediate superior according to conditions foreseen in point 6.4.

4.8. Principle of information and training

Information to staff will consist of:

- awareness campaigns comprising talks, discussions, workshops explaining to staff the policy of preventing psychological harassment and sexual harassment (understanding the different forms of violence at work, spotting problem behaviour, etc.);
- the provision of clear and precise information to help staff find out quickly and easily how to obtain support, advice and guidance and how to lodge a complaint.

The training plan to support a policy of prevention of psychological harassment and sexual harassment comprises:

- raising staff's awareness of psychological harassment and sexual harassment issues when they join the service;
- management participation in specific training and seminars to improve awareness of psychological harassment and sexual harassment issues and to help them manage such situations. Managers are strongly encouraged to attend such courses;
- specific training courses on psychological harassment and sexual harassment issues for staff and particular target groups as and when required;
- specific training courses in the interests of the service for confidential counsellors.

5. PARTIES INVOLVED

5.1. HR section and contact points

HR section is responsible for drawing up and monitoring the implementation of the policy on psychological harassment and sexual harassment.

The Head of Administration Department is the contact person for information on policy and procedures.

Confidential counsellors can be contacted in the event of psychological harassment or sexual harassment (see point 6.2.1 for details).

Heads of Departments can also be approached in case of psychological harassment or sexual harassment.

All contact persons shall, all along the procedure, be bound to the duty of confidentiality.

HR section will oversee initiatives allowing implementation of the informal procedure, and the different aspects associated with the operation of the confidential counsellor network, including allocating the cases of psychological harassment or sexual harassment submitted to specific confidential counsellors of the network.

5.2. Confidential counsellors

The appointment of confidential counsellors is based on an open call for applications and selection criteria which will be published in an administrative notice (prior training, necessary seniority, any exclusion criteria, etc.). Confidential counsellors are selected by a panel made up of representatives of the Administration Department and the Staff Committee. The panel's choice is submitted to the Director who officially appoints the confidential counsellors. Administration Department will ensure, as far as possible, a broad representation of the different categories of staff. It will also ensure a gender balance. Counsellors are to be appointed on a voluntary basis, and to ensure continuity within the network appointments will be for two years, renewable. Before being appointed, counsellors will receive special training in targeted modules. They will subsequently receive on-going training and appropriate supervision for such counselling work.

The confidential counsellors operate within the context of the informal procedure (see point 6.2.1). The Heads of Departments are advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible. The operational procedures for the counsellors are described in a Manual of procedures for confidential counsellors approved by the group of appointed confidential counsellors and adopted by the Director.

In carrying out their function and mandate confidential counsellors may not suffer any prejudice from the Institution, provided that they have acted in good faith and in accordance with the Manual of procedures. The mandate of individual confidential counsellors may be withdrawn by the appointing authority in accordance with the procedures laid down in the Manual.

5.3. The network of confidential counsellors (in the Agency and between Agencies)

The network is the key forum for meeting and for exchanges of good practice and points of view of its members in accordance with the arrangements laid down in the Manual of procedures. It offers a framework for reflection and effective action. It is also intended to provide an operational response contributing to the implementation of specific rules to stamp

out psychological harassment or sexual harassment. It plays a role in evaluating, monitoring and, where necessary, modifying procedures.

5.4. Role of managers

Heads of Departments are in principle the first people who may be approached by anyone encountering psychological harassment or sexual harassment. Responsibility for actively promoting and applying the new policy lies with them, since they represent the tier of management that is in direct contact with staff. It is up to them to take steps to prevent psychological harassment or sexual harassment, raise awareness and inform their staff of existing procedures, and play a role in any transfers of staff that may be required. In case they are informed about a case of harassment, they must also, in close collaboration with the various parties concerned, ensure the rapid and fair handling of any incident or complaint on this issue.

5.5. Staff

Each and every person working at the Agency, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law), may, if they feel they are the victim of psychological harassment or sexual harassment by a member of staff of the Agency, initiate an **informal procedure**. However, only staff covered by the Staff Regulations³ and the seconded national experts⁴ have access to the formal procedure, as described in Chapter 6. **Any person not covered by the Staff Regulations working under a contract under national law** and wishing to lodge a complaint concerning psychological harassment or sexual harassment against a member of the Agency staff may do so under **national legislation**. However, they may also bring the events which are the subject of their complaint to the attention of the Director. If the information provided is sufficiently serious, an administrative inquiry may be opened.

Any person who is made aware of, or is a witness to, conduct which appears to be improper according to the above descriptions has both the right and the duty to so inform whichever of the parties mentioned in this point (Head of Administration Department, Confidential Counsellors, Heads of Departments, Director...).

³ Staff covered by the Staff Regulations refers to staff covered by the Staff Regulations and the system that applies to other servants (staff, temporary staff, contract staff, local staff, special advisors).

⁴ Following the Administrative Board Decision laying down rules on the secondment of National Experts to the Agency.

6. PROCEDURES FOR DEALING WITH PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT CASES⁵

6.1. General advice

Any person who feels they are the victim of psychological harassment or sexual harassment is entitled to submit a request for assistance either informally or formally. As a first step, staff are strongly advised to seek resolution of the problem through conciliation, via the informal procedure, with the assistance of a confidential counsellor. Anyone who feels they are the victim of psychological harassment or sexual harassment is, however, free from the outset to initiate a formal procedure under the Staff Regulations or initiate a procedure under national applicable law. The informal procedure can also lead to a formal procedure if it proves impossible to find a solution. Passage to the formal procedure is understood to automatically involve closure of any informal procedure underway. The advantage of the informal procedure over the formal procedure lies in the possibility of finding an amicable solution and possibly avoiding a formal procedure. The advantage of the formal procedure is that it establishes the facts and, on the basis thereof, ends in the potential adoption of a penalty against a person found guilty of psychological harassment or sexual harassment at the end of a disciplinary procedure.

Any person accused of psychological harassment or sexual harassment may also request information (e.g. on current policy or procedures or those to be followed) or advice from the contact point in the Administration Department. These services may usefully advise the alleged harasser of the options for resolving the conflict, depending on the seriousness of the accusations.

6.2. Informal procedure

Someone who feels they are a victim of harassment may contact a confidential counsellor through the informal procedure. Depending on the case, emergency measures may be considered. The informal procedure allows monitoring and may lead to an amicable resolution. However, it does not involve formal establishing of the facts or the application of penalties: this is done in the formal procedure (see point 6.3 below).

6.2.1 Confidential counsellor procedure

Any person who feels they are the victim of psychological harassment or sexual harassment may contact a confidential counsellor, by contacting the Head of Administration Department or contacting the confidential counsellor directly.

⁵ For a summary of the rights and responsibilities of those who are victims of psychological harassment and sexual harassment and of alleged harassers, see Annex III.

In the first case, the contact person directs the victim towards a confidential counsellor who meets the key criteria (language, gender, department/section, etc.) specified. As a matter of principle, the confidential counsellor will be from another department/section.

The first objective of the confidential counsellor is to recognise and alleviate the victim's suffering by receiving them and listening to them without preconceptions and without passing judgment. The confidential counsellor will inform the victim of the existing procedure and of their rights. They will accompany and guide the victim, examining with them the various options and structures that will help find a satisfactory solution to the problem (directing them towards and placing them in contact with the Medical Service, human resources, managers etc.). **Any action taken by confidential counsellors in the informal procedure may only be carried out with the prior agreement of the victim and must remain within the framework of the mandate given to them.**

The confidential counsellor may meet the other party and play a conciliatory role in an attempt to reach an amicable solution. In all cases, confidential counsellors shall strive to listen carefully to the two parties, remain objective, clarify the facts and ensure good communication. Confidential counsellors have a period of one month within which to deal with the problem. This may be extended to two months if necessary. If no solution can be found in this period, counsellors may propose that the victim lodge a formal complaint (see point 6.3).

In the formal procedure, confidential counsellors are limited to providing support for the victim. Under this procedure, and depending on the requirements of the inquiry, confidential counsellors may also be called as witnesses, to testify to facts relevant to the inquiry which they have been informed of during the informal procedure.

6.3. Formal procedure

Any person in the agency who feels they are the victim of psychological harassment or sexual harassment is entitled under the Staff Regulations to initiate a formal procedure: either immediately, without first going through the informal procedure, or in the course of or at the end of the informal procedure.⁶

The Staff Regulations explicitly condemn any form of psychological harassment or sexual harassment by a staff member. Sexual harassment is, moreover, treated as discrimination based on gender (Article 12a (4) of the Staff Regulations).

A formal procedure can be initiated on the basis of a request for assistance under Article 24 of the Staff Regulations. The Agency shall take the appropriate steps, by carrying out an

⁶ All staff of the Institution can also appeal to applicable national law, in which case Article 25 of annex IX of the Staff Regulations applies.

inquiry to establish the facts at the origin of the request in collaboration with the author of that request, within 4 months.⁷ If the request is rejected, either explicitly or implicitly, the person concerned can, where appropriate, lodge a complaint under Article 90 (2) of the Staff Regulations and - if it is rejected - submit an appeal to the Court of First Instance.

Requests for assistance must be submitted to the Director, who is responsible for initiating the procedure. The Appointing Authority can then instruct the investigation team or expert to carry out an administrative inquiry to determine the facts of the case and apportion any responsibility. Any person who feels they are the victim of sexual harassment must provide all details which might support their allegations. In the case of psychological harassment, a degree of evidence is required. The person bringing a complaint of psychological harassment or sexual harassment may be accompanied at the hearings by a person of their choice, provided that person cannot be called as a witness in the course of the inquiry. At the end of its administrative inquiry the investigation team or the expert will present its report, proposing either that the case be closed without further action or that disciplinary proceedings be opened. If it proposes the latter, the appointing authority may decide, once it has heard the person or persons concerned, to open disciplinary proceedings and apply the ensuing penalties if there is confirmation of the wrongful act (see Article 86 and Annex IX to the Staff Regulations). If the misconduct involves repeated action or behaviour, this will be taken into account in determining the seriousness of the misconduct and deciding on the appropriate disciplinary measure as well as a possible hierarchical relationship (see Article 10(h) of Annex IX to the Staff Regulations).

If the procedure results in recognition of psychological harassment or sexual harassment, victims will receive compensation for the damage suffered under the terms set out in the Staff Regulations (second paragraph of Article 24) where appropriate.

If the procedure ends in no action, all those who have been interviewed will be informed. If the complaint proves to have been formulated in an abusive manner or in bad faith, the Appointing Authority may take disciplinary measures, either on its own initiative or at the request of the wrongfully accused person.

6.4. Emergency measures

The main concern of any victim of psychological harassment or sexual harassment is to stop that harassment as quickly as possible. Where there are signs of psychological harassment or sexual harassment, one option which may be envisaged is to move one of the parties concerned (within the Department or to another Department). This measure may take the form of a reassignment in the interests of the service, and may involve the victim (preferably with his or her agreement) or the alleged harasser (following an interview with the Director).

⁷ See Court judgment in Case T-254/02 L v Commission, point 105.

The aim of such a measure is to separate the two parties and may be proposed to the competent appointing authority by confidential counsellors or requested directly by one of the parties concerned.

Emergency measures, which must take account of the needs of each particular situation, can be taken immediately. These are precautionary measures designed to put an end to a given situation. They are also intended to give the victim a chance to recover. These measures may of course also be taken within the framework of the formal procedure, at the request of the alleged victim or on the initiative of the appointing authority concerned.

6.5. Recurrent cases

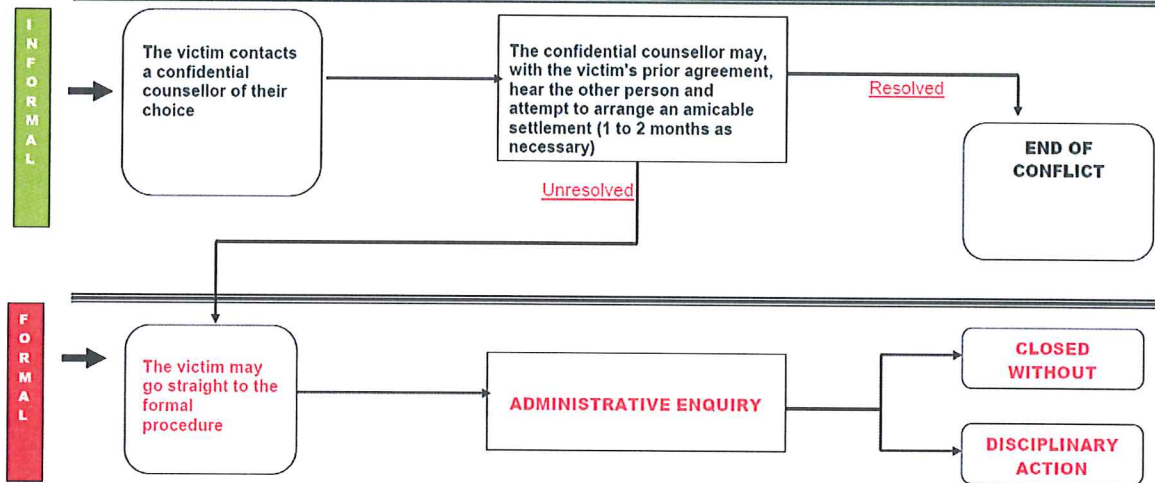
Requests for assistance from different people involving the same individual are to be considered disturbing. These will therefore be brought to the knowledge of the Head of Department and the Appointing Authority. The appointing authority will decide on the most appropriate action to be taken. The Head of Department will inform the investigation team or the expert of any recurrent cases it identifies. The investigation team or the expert will inform the Appointing Authority which will, where appropriate, launch the procedures provided for in Annex IX to the Staff Regulations.

7. EVALUATION

HR section will monitor this policy. After two years of implementation of this decision, an ex-post evaluation will be carried out. These measures will be carried out in collaboration with the departments involved and the network of confidential counsellors.

ANNEX II to the DECISION AB n° 01/2013

PSYCHOLOGICAL AND SEXUAL HARASSMENT
OUTLINE OF PROCEDURES



ANNEX III to the DECISION AB n° 01/2013

Your rights and responsibilities

A. If you feel you are victim of psychological harassment or sexual harassment

YOU ARE ENTITLED

- to be heard within the informal procedure, by contacting the Head of the Administration Department or a confidential counsellor of your choice, uncritically and under the strictest confidentiality;
- to be certain that the confidential counsellor will not take any steps without your agreement;
- within the context of the formal procedure, to submit a request for assistance to the appointing authority without embarrassment or fear of reprisals or indiscretions;
- to be accompanied by a person of your choice during meetings with investigators;
- to be assured of a fair and impartial investigation;
- to be informed of the result of the investigation and, where applicable, of the measures that will be taken.

YOU MUST

- within a reasonable period, make the person you are accusing aware of your disapproval or unease, where necessary accompanied by a confidential counsellor;
- keep a written record of all incidents;
- cooperate with those in charge of the investigation into your complaint.

B. If you have been accused of psychological harassment or sexual harassment

YOU ARE ENTITLED

- to contact, if necessary at the informal procedure stage, the Head of the Administration Department to advise you uncritically and under the strictest confidentiality;
- to be informed that an official complaint has been lodged against you, receive a copy of that complaint and have the opportunity to react to it;
- to be accompanied by a person of your choice during meetings with investigators;
- to be assured of a fair and impartial investigation;
- to be informed of the result of the investigation and, where applicable, of the measures taken.

YOU MUST

- cooperate with those in charge of the investigation into the complaint against you.